



THE ATTORNEY GENERAL OF TEXAS

CRAWFORD C. MARTIN
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

March 7, 1972

Honorable Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. M-1093

Re: Whether Texas is entitled to its proportionate share of the Federal Credit for State death taxes as set out in Article 14.12, Title 122A, Tax.-Gen., V.C.S., when the decedent was a non-resident of Texas and the specific property which is located in Texas is exempt under Article 14.015, Title 122A?

Dear Sir:

Your letter addressed to the Attorney General is as follows:

"Ethel Burnsides died testate a resident of the State of Illinois owning oil and gas properties in Texas which were devised equally to the University of Illinois Foundation of Urbana, Illinois, exclusively for the Burnsides Research Fund and to the Burnsides Nursing Home of Marshall, Illinois.

"Under our basic inheritance tax law, this educational and charitable bequest is exempt. However, the entire estate of the deceased wherever located is subject to the Federal estate tax laws and produced a Federal credit for state death tax.

"It is the view of this Department that since the value of these oil and gas properties in Texas was included in the Federal estate tax return in order to

produce a gross estate wherein a Federal credit for state death taxes was allowed, the State of Texas is entitled to its proportionate share of such Federal credit for state death taxes.

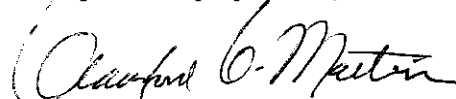
"Please advise this Department whether or not we are correct."

We agree with your view and hold that the State of Texas is entitled to its proportionate share of the Federal Credit for state death taxes. The same reasoning and authorities contained in Attorney General Opinion No. C-403 (1965) will apply here. We hold that neither the nature of the exemption from the basic inheritance tax nor the non-residency of the testatrix will alter the rules of law set forth in our previous opinion. Article 14.12, Title 122A, Tax.-Gen., V.C.S.; Sinnott v. Gidney, 159 Tex. 366, 322 S.W.2d 507, 513, (1959) and authorities therein cited; also see Simco v. Shirk, 146 Tex. 259, 206 S.W.2d 221 (1947).

SUMMARY

The State of Texas is entitled to its proportionate share of the federal credit for state death taxes as set out in Article 14.12, Title 122A, Tax.-Gen., V.C.S. even though the decedent was a non-resident of Texas and the specific property which is located in Texas is exempt under Article 14.015, Title 122A, Tax.-Gen., V.C.S.

Very truly yours,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Fisher A. Tyler
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APPROVED:
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